

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

**Chris Langer,**

Plaintiff,

v.

**Emad Issa Gorial;  
Hadeer Gorial;  
Namir Gorial;** and Does 1-10,  
Defendants.

Case No. '14CV2304 BAS MDD

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: American's With Disabilities  
Act; Unruh Civil Rights Act;  
California Disabled Persons Act;  
Negligence**

Plaintiff Chris Langer complains of Defendants Emad Issa Gorial;  
Hadeer Gorial; Namir Gorial; and Does 1-10 ("Defendants") and alleges as  
follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. He is a  
paraplegic who cannot walk and who uses a wheelchair for mobility. He has  
a specially equipped van with a ramp that deploys out of the passenger side  
of his van and he has a Disabled Person Parking Placard issued to him by the  
State of California.

1       2. Defendants are, or were at the time of the incidents, the real property  
2 owners, business operators, lessors and/or lessees for the Stage Stop Liquor  
3 (“Store”) located at or about 578 Main Street, Ramona, California.

4       3. Plaintiff does not know the true names of Defendants, their business  
5 capacities, their ownership connection to the property and business, or their  
6 relative responsibilities in causing the access violations herein complained  
7 of, and alleges a joint venture and common enterprise by all such  
8 Defendants. Plaintiff is informed and believes that each of the Defendants  
9 herein, including Does 1 through 10, inclusive, is responsible in some  
10 capacity for the events herein alleged, or is a necessary party for obtaining  
11 appropriate relief. Plaintiff will seek leave to amend when the true names,  
12 capacities, connections, and responsibilities of the Defendants and Does 1  
13 through 10, inclusive, are ascertained.

14  
15       **JURISDICTION & VENUE:**

16       4. This Court has subject matter jurisdiction over this action pursuant to  
17 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans  
18 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

19       5. Pursuant to pendant jurisdiction, an attendant and related cause of  
20 action, arising from the same nucleus of operative facts and arising out of  
21 the same transactions, is also brought under California’s Unruh Civil Rights  
22 Act, and the California Disabled Persons Act, which acts expressly  
23 incorporate the Americans with Disabilities Act.

24       6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
25 founded on the fact that the real property which is the subject of this action  
26 is located in this district and that Plaintiff’s cause of action arose in this  
27 district.

**FACTUAL ALLEGATIONS:**

7. The Store is a facility open to the public, a place of public accommodation, and a business establishment.

8. Parking spaces are one of the facilities, privileges and advantages offered by defendants to their customers at the Store.

9. Unfortunately, although parking spaces are one of the facilities available to patrons of the Store, there is not a single compliant handicap-accessible parking space available for disabled persons.

10. On information and belief, plaintiff alleges that a fully compliant handicap-accessible parking space once existed at this location but defendants have allowed the handicap-accessible parking space to fade beyond recognition or have allowed it to be paved over.

11. Defendants have no policy or procedure in place to make sure that the accessible parking spaces remain useable in the parking lot. As such, the parking space reserved for disabled persons is no longer available for disabled customers. Additionally, because of the lack of accessible parking, plaintiff did not stay and shop. Instead, he shopped and purchased an item at another store in the area.

12. The plaintiff travels in and through the Ramona area on a regular and ongoing basis. He has shopped, eaten, and otherwise patronized businesses in and around the Ramona area on numerous occasions over the years and will continue to do so in the future. He went to the Store in June of 2014 with the intention to shop and encountered the barriers. He would like to return to the Store. He has also been deterred from additional attempts at patronage because of his knowledge of the barriers.

13. In encountering and dealing with the lack of accessible facilities, the plaintiff experienced difficulty, frustration, and discomfort. This violation denied the plaintiff full and equal access to facilities, privileges and

1 accommodations offered by the defendants.

2 14. The defendants have failed to maintain in working and useable  
3 condition those features required to provide ready access to persons with  
4 disabilities.

5 15. Given the obvious and blatant violations, the plaintiff alleges, on  
6 information and belief, that there are other violations and barriers on the site  
7 that relate to his disability. Plaintiff will amend the complaint, to provide  
8 proper notice regarding the scope of this lawsuit, once he conducts a site  
9 inspection. However, please be on notice that the plaintiff seeks to have all  
10 barriers related to his disability remedied. See *Doran v. 7-11*, 506 F.3d 1191  
11 (9th Cir. 2007) (holding that once a plaintiff encounters one barrier at a site,  
12 he can sue to have all barriers that relate to his disability removed regardless  
13 of whether he personally encountered them).

14 16. Additionally, on information and belief, the plaintiff alleges that the  
15 failure to remove these barriers was intentional because: (1) these particular  
16 barriers are intuitive and obvious; (2) the defendants exercised control and  
17 dominion over the conditions at this location and, therefore, the lack of  
18 accessible facilities was not an “accident” because had the defendants  
19 intended any other configuration, they had the means and ability to make the  
20 change.

21  
22 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
23 **WITH DISABILITIES ACT OF 1990** (On behalf of plaintiffs and against  
24 all defendants (42 U.S.C. section 12101, et seq.)

25 17. Plaintiff repleads and incorporates by reference, as if fully set forth  
26 again herein, the allegations contained in all prior paragraphs of this  
27 complaint.

28 18. Under the ADA, it is an act of discrimination to fail to ensure that the

1 privileges, advantages, accommodations, facilities, goods and services of  
 2 any place of public accommodation is offered on a full and equal basis by  
 3 anyone who owns, leases, or operates a place of public accommodation. See  
 4 42 U.S.C. § 12182(a). Discrimination is defined, *inter alia*, as follows:

- 5 a. A failure to make reasonable modifications in policies, practices,  
 6 or procedures, when such modifications are necessary to afford  
 7 goods, services, facilities, privileges, advantages, or  
 8 accommodations to individuals with disabilities, unless the  
 9 accommodation would work a fundamental alteration of those  
 10 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 11 b. A failure to remove architectural barriers where such removal is  
 12 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
 13 defined by reference to the ADAAG, found at 28 C.F.R., Part  
 14 36, Appendix “D.”
- 15 c. A failure to make alterations in such a manner that, to the  
 16 maximum extent feasible, the altered portions of the facility are  
 17 readily accessible to and usable by individuals with disabilities,  
 18 including individuals who use wheelchairs or to ensure that, to  
 19 the maximum extent feasible, the path of travel to the altered  
 20 area and the bathrooms, telephones, and drinking fountains  
 21 serving the altered area, are readily accessible to and usable by  
 22 individuals with disabilities. 42 U.S.C. § 12183(a)(2).

23 19. Any business that provides parking spaces must provide handicap  
 24 parking spaces. 1991 Standards § 4.1.2(5); 2010 Standards § 208. One in  
 25 every eight of those handicap parking spaces but not less than one must be a  
 26 “van” accessible parking space, *i.e.*, having an eight foot access aisle. 1991  
 27 Standards § 4.1.2(5)(b). Under the 2010 Standards, one in every six  
 28 accessible parking spaces must be van accessible. 2010 Standards § 208.2.4.

1       20. Here, the lack of a handicap-accessible parking space is a violation of  
2 the law.

3       21. The defendants have no policy or procedure to make sure that its  
4 parking spaces remain useable by disabled persons.

5       22. A public accommodation must maintain in operable working  
6 condition those features of its facilities and equipment that are required to be  
7 readily accessible to and usable by persons with disabilities. 28 C.F.R. §  
8 36.211(a).

9       23. Here, the failure to ensure that the accessible parking was available  
10 and ready to be used by the plaintiff is a violation of the law.

11  
12       **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH**  
13       **CIVIL RIGHTS ACT** (On behalf of plaintiffs and against all defendants)  
14       (Cal Civ § 51-53)

15       24. Plaintiff repleads and incorporates by reference, as if fully set forth  
16 again herein, the allegations contained in all prior paragraphs of this  
17 complaint.

18       25. Because the defendants violated the plaintiffs' rights under the ADA,  
19 they also violated the Unruh Civil Rights Act and are liable for damages.  
20 (Civ. Code § 51(f), 52(a).)

21       26. Because the violation of the Unruh Civil Rights Act resulted in  
22 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are  
23 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §  
24 55.56(a)-(c).)

1 **III. THIRD CAUSE OF ACTION: VIOLATION OF THE**  
2 **CALIFORNIA DISABLED PERSONS ACT** (On behalf of plaintiffs and  
3 against all defendants) (Cal Civ. § 54-54.8)

4 27. Plaintiff repleads and incorporates by reference, as if fully set forth  
5 again herein, the allegations contained in all prior paragraphs of this  
6 complaint.

7 28. Because the defendants violated the plaintiff's rights under the ADA,  
8 they also violated the Disabled Persons Act and are liable for damages. (Civ.  
9 Code § 54.1(d), 54.3(a).)

10 29. Because the violation of the Disabled Persons Act resulted in  
11 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are  
12 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §  
13 55.56(a)-(c).)

14  
15 **IV. FOURTH CAUSE OF ACTION: NEGLIGENCE** (On behalf of  
16 plaintiff and against all defendants)

17 30. Plaintiff repleads and incorporates by reference, as if fully set forth  
18 again herein, the allegations contained in all prior paragraphs of this  
19 complaint.

20 31. The Defendants had a general duty and a duty arising under the  
21 Americans with Disabilities Act and the Unruh Civil Rights Act and  
22 California Disabled Persons Act to provide safe, convenient, and accessible  
23 facilities to the plaintiffs. Their breach of this duty, as alleged in the  
24 preceding paragraphs, has caused injury and damage as alleged above.

**PRAYER:**

Wherefore, Plaintiff prays that this court award damages and provide relief as follows:

1. For injunctive relief, compelling defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the Plaintiffs are not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act at all.

2. Damages under the Unruh Civil Rights Act and/or the California Disabled Persons Act which damages provide for actual damages and a statutory minimum of \$4,000. Note: a plaintiff cannot recover under both acts, simultaneously, and an election will be made prior to or at trial.

3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant to 42 U.S.C. § 12205; Cal. Civ. Code §§ 52 and 54.3.

Dated: August 25, 2014

CENTER FOR DISABILITY ACCESS

By: 

Mark Potter, Esq.  
Attorneys for Plaintiff